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OFFICE OF PETITIONS

In re Patent No. 7,054,490 : DECISION ON REQUEST FOR
Sakaue et al. : RECONSIDERATION OF
Issue Date: May 30, 2006 : PATENT TERM ADJUSTMENT
Application No. 09/749,602 : and
Filed: December 28, 2000 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 016887/1029 : CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" filed July 24, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from eight hundred ten (810) days to nine hundred thirty (930) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of nine hundred thirty (930) days.

On May 30, 2006, the above-identified application matured into U.S. Patent No. 7,054,490, with a revised patent term adjustment of 810 days. The patent term adjustment was reduced by 120 days for the filing of a miscellaneous incoming letter after the mailing of the notice of allowance. The instant request for reconsideration filed July 24, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

Patentees assert that the patent term adjustment should not have been reduced for the filing of the miscellaneous letter as it was a Letter of Good Faith (regarding the patent term adjustment). Patentees request removal of the 120-day reduction.

§ 1.704(e) provides that:

Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

A review of the record confirms that the paper filed August 23, 2005 was a letter regarding patent term adjustment pursuant to Comment 43 of the final rule. Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 120 days will be properly restored to patentees patent term adjustment.

In view thereof, the patent should have issued with a revised patent term adjustment of nine hundred thirty (930) days.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred thirty (930) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal flourish extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,054,490 B2

DATED : May 30, 2006

INVENTOR(S) : Sakaue et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (810) days

Delete the phrase "by 810" and insert – by 930 days--